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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,194

12/22/2004

Nobuaki Yagi

040894-7146

6809

9629

7590

10/24/2006

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EXAMINER

LOPEZ, MICHELLE

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/519,194

Applicant(s)

YAGI ET AL.

Examiner

Michelle Lopez

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/29/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is in response to the amendment filed on 9/11/06.

#### ***Drawings***

Figure s 10 and 11 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The replacement drawings of Figures 10 and 11 marked "Related Art" are not approved since the term has little meaning. These figures are either prior art, in which case the figures need to be labeled as such, or are not prior art in which case no markings are necessary. Since these figures are described in the "Background to the Invention" portion of the specification they seem to be directed to prior art.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Akizawa 5,009,355.

Akizawa discloses an electric stapler comprising a magazine portion 26, a staple striking portion 7, a driver, and a motor; a table 4 supported by a main body frame 1 of the electric stapler, and including a clincher mechanism for folding to bend a leg portion of the staple penetrated through the sheets along the sheets as shown in Fig. 2, and a wing piece formed at the table; and locking means 6 formed between the wing piece of the table and the main body frame, wherein pivoting force in an opening direction of the table is hampered by engaging the locking means with the wing piece as shown in Fig. 1a (claim 1); wherein the locking means 6 comprises a lock plate including a locking pin 17 engageable with the wing piece at one end thereof and supported by the main body frame at other end side thereof, and wherein by engaging the locking pin with the wing piece from being pivoted the pivoting force in the opening direction of the table is hampered (claim 2); the locking means further comprises an operating piece 13 formed at the lock plate and an operating cam 14 arranged to be brought into contact with and to be separated from the operating piece, and a spring (claim 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akizawa 5,009,355 in view of Kanai 5,836,502.

Akizawa discloses an electric stapler with a locking mechanism substantially as claimed as discussed above, but does not disclose wherein the locking means comprises an eccentric cam supported by a main body frame and engageable with a wing piece. However, Kanai shows electric stapler comprising a table supported by a main body frame and having a wing piece 11, and a locking mechanism comprising an eccentric cam 10 engageable with the wing piece 11 for the purpose of actuating the wing piece such that performing a staple driving operation and thereafter stopping the actuation of the wing piece in an opening direction during the staple driving operation as shown in col. 15; 64-67 and col. 16; 1-10. It would have been obvious to one skilled in the art to use an eccentric cam on the locking mechanism of Magnusson's as taught by Kanai to properly lock the wing piece in an opening direction during a staple driving operation.

Kanai also teaches the concept of engaging teeth 54,55 and locking teeth at 52 (claim 5).

### ***Response to Arguments***

Applicant's arguments with respect Magnusson have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

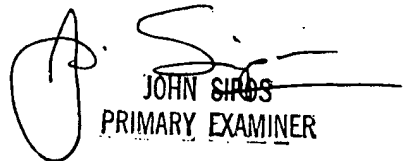
Art Unit: 3721

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ML

  
JOHN SIRO  
PRIMARY EXAMINER